

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 18-41570

NICKOLUS SOUTH,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING THE DEBTOR'S MOTION
TO EXTEND THE AUTOMATIC STAY**

This case is before the Court on a motion filed on February 27, 2018 by the Debtor, entitled "Motion to Extend the Automatic Stay" (Docket # 24, the "Motion"). The Court will deny the Motion, for the following reasons.

First, the Motion was not timely filed. Under 11 U.S.C. § 362(c)(3)(B), in order for the Court to extend the automatic stay, a hearing on a motion to extend the automatic stay must be completed within 30 days after the filing of the case. Because of the statute's 30-day hearing deadline, LBR 4001-4(a) (E.D. Mich.) requires that a motion to extend the stay be filed and served within seven days after the bankruptcy petition is filed. The Debtor filed his voluntary petition for relief under Chapter 13 in this case on February 6, 2018. The Debtor did not file his Motion until February 27, 2018, which was 14 days after the deadline to file such a motion expired under LBR 4001-4(a).¹

Second, the Motion was not timely served — February 28, 2018 at the earliest, per Docket # 26 — which was 15 days after the deadline to serve such a motion under LBR 4001-4(a).

¹ The Court notes that the Debtor filed an earlier motion to extend the stay on February 12, 2018, and again on February 14, 2018 (Docket ## 16, 19), but both of those motions were stricken, for reasons stated in the orders striking them (Docket ## 18, 23).

Third, the only certificate regarding service of the Motion (Docket # 26) is deficient. This is so because that certificate says that service was to be done by “BK Attorney Services, LLC d/b/a certificateofservice.com,” and that “[a] copy of the declaration of service is attached hereto and incorporated as if fully set forth herein,” but no such declaration of service by BK Attorney Services, LLC was attached.

Fourth, it is now impossible to schedule and conclude a hearing on the Motion within the required 30-day period; that period ended on March 8, 2018.

Accordingly,

IT IS ORDERED that the Motion (Docket # 24), is denied.

Signed on March 9, 2018



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge